

AMENDED IN SENATE MARCH 1, 2010

AMENDED IN ASSEMBLY JANUARY 25, 2010

AMENDED IN ASSEMBLY JANUARY 11, 2010

AMENDED IN ASSEMBLY JANUARY 4, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## ASSEMBLY BILL

**No. 1088**

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**Introduced by Assembly Member Fletcher**

**(Coauthors: Assembly Members Block, Conway, DeVore, Gilmore,  
~~V. Manuel Perez, and Nestande Knight, Nestande, V. Manuel  
Perez~~)**

*(Coauthor: Senator Wiggins)*

February 27, 2009

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An act to amend Section 1048 of, and to repeal and add Section 1051 of, the Military and Veterans Code, and to add and repeal Article 11.3 (commencing with Section 18810) of Chapter 3 of Part 10.2 of Division 2 of, and to repeal Article 11.5 (commencing with Section 18825) of Chapter 3 of Part 10.2 of Division 2 of, the Revenue and Taxation Code, relating to veterans.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1088, as amended, Fletcher. Taxpayer contributions: California Veterans Homes Fund.

Under existing law regulating the administration of the Personal Income Tax Law, individual taxpayers are allowed to contribute amounts in excess of their tax liability for the support of specified funds or accounts, including, among others, the Veterans' Quality of Life Fund. Existing law requires the expenditure of all moneys contributed to the

fund, upon appropriation by the Legislature, for administrative costs and for distribution into the Morale, Welfare, and Recreation Fund for each of the veterans homes, as provided.

This bill would repeal those provisions, and instead allow individuals to designate on their tax returns that a specified amount in excess of their tax liability be transferred to the California Veterans Homes Fund, which would be created by this bill. However, the bill would provide that a voluntary contribution designation for this fund may not be added on the tax return until another voluntary contribution designation is removed from that return.

This bill would, like the expenditure of all moneys contributed to the Veterans' Quality of Life Fund, require the expenditure of all moneys contributed to the California Veterans Homes Fund, upon appropriation by the Legislature, for administrative costs and for distribution into the Morale, Welfare, and Recreation Fund for each of the veterans homes, as provided. This bill would require any funds remaining in the Veterans' Quality of Life Fund to be transferred to the California Veterans Homes Fund.

This bill would provide that these voluntary contribution provisions be repealed on January 1 of the 5th taxable year following the taxable year the fund first appears on the personal income tax return. This bill would further provide that these provisions would be repealed for taxable years beginning on or after January 1 of the calendar year in which the Franchise Tax Board estimates by September 1 that the contributions made on returns filed in that calendar year will be less than \$250,000, or an adjusted amount for subsequent taxable years.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1048 of the Military and Veterans Code
- 2 is amended to read:
- 3 1048. (a) The Morale, Welfare, and Recreation Fund shall
- 4 include proceeds from the California Veterans Homes Fund,
- 5 operations of the Veterans' Home Exchange, revenue derived from
- 6 the issuance of prisoner-of-war special license plates pursuant to
- 7 Section 5101.5 of the Vehicle Code, all funds derived from golf
- 8 course green fees and range ball fees, all donations to the fund,
- 9 interest earned on invested funds, funds derived from the estates

1 of deceased members, and any other moneys or property described  
2 in this chapter, including, but not limited to, moneys and properties  
3 received by the home from estate assets located outside the home,  
4 regardless of amount.

5 (b) The administrator shall prepare an itemized report that is  
6 organized by category and accounts for all funds deposited into  
7 the Morale, Welfare, and Recreation Fund and transmitted to the  
8 Controller under Section 1047 during the previous fiscal year and  
9 shall submit the report on or before August 20 of each year to all  
10 of the following:

- 11 (1) The secretary.
- 12 (2) The fiscal committees of the Assembly and the Senate.
- 13 (3) The committees of the Assembly and the Senate that have  
14 subject matter jurisdiction over veterans affairs.
- 15 (4) The Veterans' Home Allied Council.

16 SEC. 2. Section 1051 of the Military and Veterans Code is  
17 repealed.

18 SEC. 3. Section 1051 is added to the Military and Veterans  
19 Code, to read:

20 1051. (a) There is hereby established in the State Treasury the  
21 California Veterans Homes Fund to receive those amounts  
22 transferred to the fund pursuant to Section 18811 of the Revenue  
23 and Taxation Code.

24 (b) Any funds remaining in the Veterans' Quality of Life Fund,  
25 as established by Section 2 of Chapter 143 of the Statutes of 2005,  
26 shall be transferred to the California Veterans Homes Fund  
27 established by subdivision (a).

28 SEC. 4. Article 11.3 (commencing with Section 18810) is  
29 added to Chapter 3 of Part 10.2 of Division 2 of the Revenue and  
30 Taxation Code, to read:

31  
32 Article 11.3. California Veterans Homes Fund  
33

34 18810. (a) Any individual may designate on the tax return that  
35 a contribution in excess of the tax liability, if any, be made to the  
36 California Veterans Homes Fund established by Section 1051 of  
37 the Military and Veterans Code. That designation is to be used as  
38 a voluntary contribution on the tax return.

39 (b) The contributions shall be in full dollar amounts and may  
40 be made individually by each signatory on a joint return.

1 (c) A designation shall be made for any taxable year on the  
2 initial return for that taxable year and once made is irrevocable. If  
3 payments and credits reported on the return, together with any  
4 other credits associated with the taxpayer's account, do not exceed  
5 the taxpayer's liability, the return shall be treated as ~~though~~ *if* no  
6 designation has been made. If no designee is specified, the  
7 contribution shall be transferred to the General Fund after  
8 reimbursement of the direct actual costs of the Franchise Tax Board  
9 for the collection and administration of funds under this article.

10 (d) The Franchise Tax Board shall revise the form of the return  
11 to include a space labeled the "California Veterans Homes Fund"  
12 to allow for the designation permitted. The form shall also include  
13 in the instructions information that the contribution may be in the  
14 amount of one dollar (\$1) or more and that the contribution shall  
15 be used for veterans homes operations.

16 (e) Notwithstanding any other law, a voluntary contribution  
17 designation for the California Veterans Homes Fund may not be  
18 added on the tax return until another voluntary contribution  
19 designation is removed.

20 (f) A deduction shall be allowed under Article 6 (commencing  
21 with Section 17201) of Chapter 3 of Part 10 for any contribution  
22 made pursuant to subdivision (a).

23 18811. The contributions made pursuant to Section 18810 shall  
24 be transferred for deposit in the California Veterans Homes Fund  
25 established by Section 1051 of the Military and Veterans Code.

26 18812. The Franchise Tax Board shall notify the Controller of  
27 both the amount of money paid by taxpayers in excess of their tax  
28 liability, and the amount of refund money that taxpayers have  
29 designated, pursuant to Section 18810 to be transferred to the  
30 California Veterans Homes Fund established by Section 1051 of  
31 the Military and Veterans Code. The Controller shall transfer from  
32 the Personal Income Tax Fund to the California Veterans Homes  
33 Fund an amount not in excess of the sum of the amounts designated  
34 by individuals pursuant to Section 18810 for payment into that  
35 fund.

36 18813. All moneys transferred to the California Veterans  
37 Homes Fund, upon appropriation by the Legislature, shall be  
38 allocated as follows:

1 (a) To the Franchise Tax Board and the Controller for  
2 reimbursement of all costs incurred by the Franchise Tax Board  
3 and the Controller in connection with their duties under this article.

4 (b) To the Department of Veterans Affairs for allocation to the  
5 administrators of veterans homes. Moneys allocated pursuant to  
6 this subdivision shall be distributed proportionally to the Morale,  
7 Welfare, and Recreation Fund of each veterans home pursuant to  
8 Section 1047 of the Military and Veterans Code.

9 (c) Appropriations from the General Fund for the funding of  
10 those purposes described in subdivision (b) may not be reduced  
11 for the purpose of, or to have the effect of, requiring increased  
12 expenditures from the California Veterans Homes Fund for those  
13 described purposes.

14 18814. It is the intent of the Legislature that this article create  
15 an additional funding source for veterans homes and shall be used  
16 to supplement, not supplant, other funding sources for veterans  
17 homes.

18 18815. (a) This article shall remain in effect only until January  
19 1 of the fifth taxable year following the first appearance of the  
20 California Veterans Homes Fund on the tax return, and as of that  
21 date is repealed, unless a later enacted statute, that is enacted before  
22 the applicable date, deletes or extends that date.

23 (b) (1) By September 1 of the second calendar year, and by  
24 September 1 of each subsequent calendar year that the California  
25 Veterans Homes Fund appears on a tax return, the Franchise Tax  
26 Board shall do all of the following:

27 (A) Determine the minimum contribution amount required to  
28 be received during the next calendar year for the fund to appear  
29 on the tax return for the taxable year that includes the next calendar  
30 year.

31 (B) Provide written notification to the Department of Veterans  
32 Affairs of the amount determined in subparagraph (A).

33 (C) Determine whether the amount of contributions estimated  
34 to be received during the calendar year will equal or exceed the  
35 minimum contribution amount determined by the Franchise Tax  
36 Board for the calendar year pursuant to subparagraph (A). The  
37 Franchise Tax Board shall estimate the amount of contributions  
38 to be received and an estimate of the contributions that will be  
39 received by using the actual amounts received by the end of that  
40 calendar year.

1 (2) If the Franchise Tax Board determines that the amount of  
2 contributions estimated to be received during a calendar year will  
3 not at least equal the minimum contribution amount for the calendar  
4 year, this article is repealed with respect to taxable years beginning  
5 on or after January 1 of that calendar year.

6 (3) For purposes of this section, the minimum contribution  
7 amount for a calendar year means two hundred fifty thousand  
8 dollars (\$250,000) for the second calendar year after the first  
9 appearance of the California Veterans Homes Fund on the personal  
10 income tax return or the adjusted minimum contribution amount  
11 adjusted pursuant to subdivision (c).

12 (c) For each calendar year, beginning with the third calendar  
13 year that the California Veterans Homes Fund appears on the tax  
14 return, the Franchise Tax Board shall adjust, on or before  
15 September 1 of that calendar year, the minimum estimated  
16 contribution amount specified in subdivision (b) as follows:

17 (1) The minimum estimated contribution amount for the calendar  
18 year shall be an amount equal to the product of the minimum  
19 contribution amount for the prior September 1 multiplied by the  
20 inflation factor adjustments as specified in paragraph (2) of  
21 subdivision (h) of Section 17041, rounded off to the nearest dollar.

22 (2) The inflation factor adjustment used for the calendar year  
23 shall be based on the figures for the percentage change in the  
24 California Consumer Price Index received on or before August 1  
25 of the calendar year pursuant to paragraph (1) of subdivision (h)  
26 of Section 17041.

27 SEC. 5. Article 11.5 (commencing with Section 18825) of  
28 Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation  
29 Code is repealed.